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September 30, 2008

DECISION AND ORDER
OFFICE OF HEARINGS AND APPEALS

Hearing Officer Decision

Name of Case: Personnel Security Hearing

Date of Filing: March 5, 2008

Case Number: TSO-0611

This Decision concerns the eligibility of XXXXXXXXX (hereinafter referred to as "the individual") to hold an access authorization under the Department of Energy's (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, "General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."¹ A DOE Local Security Office (LSO) suspended the individual's access authorization pursuant to the provisions of Part 710. In this Decision, I will consider whether, on the basis of the testimony and other evidence in the record of this proceeding, the individual's access authorization should be restored. As discussed below, after carefully considering the record before me in light of the relevant regulations, I have determined that the DOE should not restore the individual's access authorization at this time.

I. Background

On July 26, 2006, the individual, a DOE subcontractor employee, completed a Questionnaire for National Security Positions (QNSP) in which he reported, among other things, that he had obtained a foreign passport in September 2001, while holding a DOE security clearance. The LSO conducted a PSI with the individual on October 3, 2007. Exhibit 3. The LSO ultimately determined that the derogatory information concerning the individual created a substantial doubt about his eligibility for an access authorization, and that the doubt could not be resolved in a manner favorable to him. Accordingly, the LSO proceeded to obtain authority to initiate an administrative review proceeding.

The administrative review proceeding began with the issuance of a Notification Letter to the individual. See 10 C.F.R. § 710.21. That letter informed the individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for access authorization. Specifically, the DOE characterized this information as indicating that the individual has engaged in unusual conduct or is subject to circumstances which tend to show that he is not honest, reliable, or trustworthy; or which furnishes reason to believe that he may be

¹ Access authorization is defined as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

subject to pressure, coercion, exploitation, or duress which may cause him to act contrary to the best interests of the national security. Exhibit 1 (citing 10 C.F.R. § 710.8(l) (Criterion L)).

The Notification Letter informed the individual that he was entitled to a hearing before a Hearing Officer in order to resolve the substantial doubt regarding his eligibility for access authorization. The individual requested a hearing, and the LSO forwarded the individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Hearing Officer in this matter on April 4, 2008.

At the hearing I convened pursuant to 10 C.F.R. § 710.25(e) and (g), I took testimony from the individual, a DOE Personnel Security Specialist (PSS), the site manager for the DOE subcontractor who employs the individual, and five former co-workers of the individual. The DOE Counsel submitted ten exhibits prior to the hearing, and counsel for the individual presented three exhibits.

II. The Notification Letter and the Security Concerns at Issue

As the bases for security concerns under Criterion L, the Notification Letter alleges the following:

- (1) The individual holds dual citizenship with the United States and a foreign country (hereinafter "the foreign country").
- (2) The individual has never sent documentation to the foreign government to renounce his citizenship with the foreign country and does not intend to do so in the future.
- (3) The individual exercised foreign citizenship rights while holding a security clearance when he obtained a foreign passport as a matter of convenience.
- (4) The individual admitted that he was told in the past that he should not obtain a foreign passport.
- (5) The individual obtained a foreign passport without checking with anyone at his employer or the DOE.
- (6) The individual uses his foreign passport two to three times per year while traveling to the foreign country and intends to continue to use the passport in the future.
- (7) The individual maintains close personal ties to the foreign country, including his mother, two cousins, and the son of one of his cousins.

(8) The individual has substantial financial interest in the foreign country, including a house and a vehicle.

(9) The individual admitted that he might reside in the foreign country in the future.

Exhibit 1.

I find that certain of the information set forth above could raise concerns regarding the individual's eligibility for access authorization under Criterion L. Guideline C of the *Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* states that "[w]hen an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States." *Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House (Adjudicative Guidelines). Specifically, under Guideline C, the "possession of a current foreign passport" is listed as an example of an "exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen" that "could raise a security concern and may be disqualifying" Adjudicative Guidelines at Guideline C(10)(a)(1).

III. Findings of Fact

The relevant facts in this case are not in dispute. The individual was born in a foreign country. Exhibit 4 at 1. After becoming a naturalized American citizen, he began working for a DOE facility in August of 1972 and continued working for the facility until July 2001, though in the last two years of his employment he was on assignment in the foreign country working for the U.S. military under the Interdepartmental Personnel Act. *Id.* at 5; Hearing Transcript [hereinafter Tr.] at 90. The individual then retired briefly before accepting employment with a DOE subcontractor in November 2001. Exhibit 4 at 6-8. In September 2001, the individual obtained a foreign passport, while he still held a DOE security clearance.²

On his 2006 QNSP, the individual responded "Yes" to the question, "In the last 7 years, have you had an active passport that was issued by a foreign government?" *Id.* at 16. He provided the date he obtained the passport and other details, including the following additional comments: "I travel to the [foreign country] on a regular basis to visit my mother in [the foreign country], other relatives, colleagues at the [U.S. military] office in [the capital of the foreign country], and also in [another city in the foreign country]. The dual passport is extremely useful during this period of high frequency visits." *Id.*

² On his 2006 QNSP, the individual stated that, "[s]ubsequent to my retirement from the [DOE facility], I retained an affiliate, non-recompensed, position with [the DOE facility], to assure a smooth transition from full employment." *Id.* at 8.

Another item on the QNSP stated, “If you are (or were) a dual citizen of the United States and another country, provide the name of that country.” The individual listed the foreign country in response to this item, explaining in his 2007 PSI that “I thought I better put down as dual, because if I’ve got a passport, I suppose theoretically I have, I, I don’t really know what dual citizenship means to be frank, you know. And that’s why I, that’s why it got marked as dual, . . .” Exhibit 3 at 50.

When asked at the PSI whether he had ever formally renounced his foreign citizenship, the individual responded, “I formally renounced my [foreign] citizenship when I became an American citizen. So a -- as part of the, uh, the process that you, you go through when you become a [naturalized] citizen, you swear allegiance to the United States and you renounce all other, all other, uh, allegiances.” Exhibit 3 at 47. The PSS then asked if the individual ever “sent any kind of documentation to the [foreign] Government or anything of that sort?” *Id.* The individual responded, “No, no. I applied for a passport, got a passport, that’s it.” *Id.* When asked whether he intended to “formally renounce” his foreign citizenship by “sending any kind of documentation,” the individual stated, “Uh, no, no, I mean, I can’t see any reason to do that. . . . My, my plan is to stay in the U.S. and, . . . it’d be crazy to move anyplace else, . . .” *Id.* at 48.

At the PSI, the PSS asked the individual why he had never previously obtained a foreign passport. *Id.* at 20. The individual stated that, “as I remembered . . . during the Cold War, . . . you couldn’t have a [foreign] passport.” *Id.* at 21. Asked whether he “check[ed] with” his employer or the DOE prior to obtaining the passport, the individual responded that “didn’t check with DOE. I figured it would come up the next time I went through a security clearance.” *Id.*³

The individual explained at the PSI that he bought a “ground floor bungalow” in the foreign country for his 95-year-old mother, stating that he was concerned for her safety because she had to climb “four flights of stairs” at the apartment where she previously lived. *Id.* at 10-11. He also owns “an old BMW” that is parked at his mother’s house. *Id.* at 12. He further stated that he has relatives in the foreign country, including two cousins, but that “I have more ties over here. I have cousins. . . . [M]y closest cousins are, are now resident in the U.S., so, so most of our family’s here around this part.” *Id.* at 31.

Asked whether he intended to return to foreign country “to help with your mother,” the individual stated he would “if there was a real need for that. I’m an only child and I don’t have any brothers or sisters there [I]f it got to that kind of point, you know, and my mother was, you know, in her last, uh, leg . . . you know, I’d obviously go back for a period of time” *Id.* at 30. Regarding his future intentions, he stated that the American city where he currently resides “is gonna be my home base, . . .” *Id.* Finally, asked about his “intentions for the passport

³ The DOE has not alleged that the individual was required to seek the approval of DOE before he obtained a foreign passport.

in the future,” the individual stated that as “long as I’m going back and forth and as long as it’s not causing me any problems, I’ll, I’ll continue to use it.” *Id.* at 23.

IV. Hearing Testimony⁴

A. The Personnel Security Specialist

The PSS testified that the security concern in this case

is that a person needs to be of unquestioned allegiance to the United States, of course. And any time an individual acts in a way that could indicate a preference towards a foreign country, then they may be prone to provide information or make decisions that are harmful or contrary to the best interest of the United States.

Id. at 17. The PSS referenced the portion of the Adjudicative Guidelines cited in Section II above, noting that the individual holds a current foreign passport. “[T]hat is a concern. Of course, in making any determination we use these guidelines, we use the concerns, and we also use the mitigating factors that are listed in there. . . . [B]ut in [the individual’s] case, he didn’t meet any of these mitigating factors.” *Id.* at 24. The PSS allowed that, “if there are some commonsense factors, that would play a part in it, and whether those commonsense factors would override the concern. But in this case [none] of the factors was felt did . . . override the concern.” *Id.* at 27.

B. DOE Subcontractor Site Manager

The site manager for the DOE subcontractor who employs the individual has known the individual since the 1970s, both of them having been involved in the same field at different DOE facilities. *Tr.* at 38. After the individual retired, the site manager hired him to do “part-time work, technical work,” which he did “until about a year or so back.” *Id.*

This site manager testified that he “can attest pretty much to [the individual’s] loyalty to this country and the work that he’s done and the dedication he’s had to our particular security programs that we both have been involved in. I mean, that’s -- there is no doubt in that regards.”

⁴ In addition to hearing testimony, the individual provided two letters for the record. One letter, written in 1994 by a United States Senator to the Director of the DOE facility, gave “particular thanks . . . to [the individual,] who has worked so hard over the past several months to develop” a plan with respect to the stabilization of certain foreign countries. Exhibit 2 at 5. The second letter, written on April 18, 2008, by the Director of the DOE facility from 1986 to 1997, states that the author has known the individual for nearly 30 years, and that “[d]uring all of my interactions with [the individual], I have found him to be an extraordinarily talented and productive member of the [the DOE facility].” Exhibit B. He worked with the individual “on purely technical matters . . . and on extremely delicate political matters” *Id.* Finally, the letter states that the individual “has always conducted himself professionally and has been driven by service to the United States. His contributions to U.S. national security during his time of service at the [DOE facility] have been exceptional. I have complete faith in his loyalty and dedication to the United States.” *Id.*

Id. at 39. He added that he knows the individual's "sentiments about this country and what we do." *Id.* He stated that the individual "[a]bsolutely" considers himself a U.S. citizen rather than a [foreign] citizen." The individual, he stated, is "pretty darn close to 100 percent American. That's his politics. That's what he believes in, and he's proud of that." *Id.* at 40.

Asked whether the individual has "ever done anything in his life that would indicate that he would damage American interest whatsoever," the witness replied,

Absolutely not, to my knowledge. Everything I've ever seen him do has been 100 percent dedicated to improving our state and the [DOE mission]. And he's done some great work, by the way. You know, some of the things that are in your stockpile today are attributed to what he did, so you're not dealing with just any old citizen here.

Id. at 40. According to the witness, the individual is "pretty well-versed in what we can share with the [foreign country] and what we can't." *Id.* at 41. While acknowledging that the individual could make a mistake, the site manager stated, "I can tell you he won't be sharing" such information. *Id.*

The witness further testified that the individual had not done anything that would indicate his preference for a foreign country over the United States. *Id.* at 46. "Obviously he goes back to [the foreign country] for family reasons, but this is where he lives. This is his country. This is where his allegiance is." *Id.* The witness stated that he could not interpret the fact the individual obtained a foreign passport as indicating a preference for the foreign country over the United States.

I know his rationale for why he did that. It's to make sure he could have access to get to his mother if he needed to in the event that for some reason his American passport wouldn't work, maybe they put something -- something goes out that Americans can't go to [the foreign country]. So he wanted to be able to get around that if he could.

Id. at 47.

C. Co-Worker #1

The first co-worker of the individual to testify at the hearing was hired by the individual to work at the DOE facility in 1979, has known him since, and worked with the individual during the remainder of the individual's tenure at the DOE facility. Asked whether he has "ever seen [the individual] be preferential to the [foreign country] vis-à-vis the United States," the co-worker stated that he had "seen the opposite." *Id.* at 49. The co-worker recalled that "not that long ago" the individual was dating a woman from the foreign country, and "we were debating politics, in which [the individual] became very upset with this lady for her analysis of the U.S. political

system. And actually showed -- the debate was more his favoritism for the U.S. political system. So I kind of equate that to just the opposite as far as allegiance.” *Id.* at 50.

The co-worker testified that, to his knowledge, the individual has never done anything that would indicate a preference for the foreign country over the United States. *Id.* The co-worker stated that he did not know if the individual could be considered “a hundred percent” American “because his mother still resides in [the foreign country]. So naturally he has ties to [the foreign country] with his mother. . . . I have never questioned [the individual’s] allegiance to the United States, but I know his family ties to [the foreign country] are more immediate than my family ties and genesis.” *Id.* at 51. Asked whether he was aware that the individual’s use of his foreign passport was “solely for convenience,” the co-worker responded that the individual “has indicated to me . . . his concerns and his mother’s age. His mother is quite old, and, you know, I know he is concerned.” *Id.* He is aware of no other reason that the individual would want a foreign passport. *Id.*

D. Co-Worker #2

The second co-worker to testify stated that he has known the individual on a work and personal basis since he came to work at the DOE facility in 1976. *Id.* at 53, 54. Asked what information he could provide that would pertain to his allegiance to the United States or whether he would give preference to the foreign country, the co-worker stated that the individual has “completely been dedicated to the [mission of the DOE facility]. I know since the time that I came here in 1976 that he’s been involved with the -- either directly or indirectly with the [DOE facility’s mission].” *Id.* at 54. The co-worker added that the individual’s “allegiance is with the [DOE facility’s mission], with whatever this country’s efforts are in that realm.” *Id.* at 55.

The co-worker testified that he knows the individual wants to continue living in the United States and “wants to make this his home.” *Id.* He stated that he has never seen the individual take any action that would give him an indication that he prefers the foreign country over the United States. *Id.* Regarding any indication of a preference for the United States over the foreign country, the co-worker testified that

both his daughter and son live here. As far as I know, most of his relatives other than his mother live in the states, so he’s connected familywise here. You know, after thirty-plus years at the [DOE facility], and having been here so long, it would seem to me it would be -- I think this is his home, by all indications.

Id. at 56. Finally, the co-worker stated that “the only giveaway” that the individual is anything other than American is his accent. *Id.*

E. Co-Worker #3

The third co-worker to testify has known the individual “for almost thirty years that I worked at the [DOE facility], and then for about ten years before we parted ways we worked together in the same group.” *Id.* at 57. The co-worker has never seen the individual in a situation in which he would seem to be indicating a preference for the foreign country over the United States. *Id.* at 59. The co-worker has, in his “past interactions with him over the years that I’ve known him, especially during the years that I worked closely with him in [a sensitive foreign] program, never seen anything that would suggest to me that he’s anything but totally loyal to the United States.” *Id.* at 60. He stated that he could not conceive of any reason to think the individual is anything other than an American citizen. *Id.* at 59. “The accent is a dead giveaway though.” *Id.*

Asked whether he was aware of any reason, “other than convenience,” for the individual to have a foreign passport, the co-worker replied, “Absolutely nothing. He told me the situation with his mother. And having dealt with an aging mother myself -- in fact, I imported her [here] to solve the problem. I know what kind of a problem that can be.” *Id.* at 62. The individual “suggested that there was some kind of a problem in terms of multiple entries when he had to go over there and deal with a family situation, but I didn’t understand what the details of it were.” *Id.*

F. Co-Worker #4

The fourth co-worker to testify stated that he had worked with the individual during the individual’s entire tenure at the DOE facility, beginning in 1972. *Id.* at 64. He testified that he has never seen the individual demonstrate any preference for the foreign country over the United States or acted in any way other than as a U.S. citizen would. *Id.* at 65, 66. Neither had the co-worker seen the individual do anything affirmative that would indicate his allegiance to the United States, “but then, . . . I can’t imagine a situation coming in all of our associations that would have been an issue.” *Id.* at 66. Asked whether he knows of any reason that the DOE would consider the individual a security risk, the co-worker replied, “No, I don’t. I truly don’t.” *Id.* at 66.

The co-worker testified that, if the individual had asked him before getting a foreign passport,

I would have probably told him, I don’t think you ought to do that. Because . . . the U.S. does not recognize, so far as I know, joint citizenships. . . . My father was a U.S. citizen, naturalized, from Sweden, and that’s the only reason -- I had heard it someplace before, that you can’t have joint citizenship if you’re a U.S. citizen. Is that true?

Id. at 69-70. Based on what he knows about the individual’s reasons for getting the passport, the co-worker did not think it could be seen as an indication of a preference for the [foreign country] over the United States. *Id.* at 70-71. “In this case, no. That would be my own -- that’s my own

opinion.” *Id.* at 71. Finally, the co-worker testified that he “[a]bsolutely” thinks the individual’s career working for the DOE facility speaks in support of his allegiance to the United States. *Id.*

G. Co-Worker #5

The fifth co-worker to testify was hired by the individual in 1985 and worked for the individual until he left the DOE facility, and has since worked with the individual as a contractor. *Id.* at 81. The co-worker stated that he has “never seen any indication whatsoever that he would have a preference for the [foreign country].” *Id.* at 83. Asked if there was any reason he could think of that the individual’s having obtained a foreign passport should be viewed as an indication of his preference for the foreign country over the United States, the co-worker responded,

Absolutely not. And my comment upon that is if this man was going to do something contrary to this country, he would have done it a long bloody time ago, okay? And I am personally baffled why . . . you know, with his career and with his record of what he's done for the defense of this country, why all of a sudden this has triggered a pulling of his clearance. I mean, from a purely commonsense perspective it just doesn't make sense to me. I'm sorry, but it doesn't. I can understand what you're saying about why this might trigger a concern, this or that, but I guess from my perspective, . . . I just don't fully understand it. He's dedicated his career to helping defend this country . . . , and -- I mean, that's just me. I don't always understand bureaucracy by any stretch of the imagination, but I don't know why this would trigger a pulling of his clearance.

. . . .

I mean, for all the years I've worked for him and with him, it's been all about [the DOE mission]. I mean, he's done nothing but good to support our [mission] in this country, either with process development or fixing problems when they came up, just a wide variety of things right on down the line. This country has benefited from this man . . . , no doubt about it, to the hiring of people, and you can just go through a whole litany maintaining confidence in his capabilities. He's done a lot of good relative to where we are today.

Id. at 85-86.

H. The Individual

The individual testified that, in his travels to and from the foreign working for the U.S. military from 1999 to 2001, he “got to be known by the passport authorities [in the foreign country], . . . [M]y American passport showed I was born in [the foreign country]. And they were half kidding with me saying, ‘You ought to get yourself a real passport and you won't have to go through this,’ you know.” *Id.* at 12. He testified that he would visit the American embassy on a regular

basis, "I asked some of the embassy personnel, I said, 'You know, can anybody use two passports going in and out here?' And they said, 'Oh, yeah, we do, you know, the ones that were [residents of the foreign country],' and they had gotten passports somewhere." *Id.*

He stated that "authorities had told me that the [foreign country] around the 2000 time frame, had put a piece of legislation through to tighten up immigration basically, . . ." *Id.* at 12-13. As an example of the trend toward tighter immigration controls, the individual submitted a copy of a 2007 proposal of the government of the foreign country "to strengthen visitor visas," including "reducing the length of time a tourist can stay in the [foreign country] from six to three months; . . ." Exhibit C. "Of course, I didn't know what the extent of the changes would be at that time. But I was told that things would be getting more difficult to go in and out of the country on a regular basis, which I needed to do because of my family situation, . . ." Tr. at 13. Finding that "border transit type of activities are being tightened up significantly, . . . my concern is that, you know, I have to be there for my mother. I'm an only child, I don't have any brothers or sisters. All of her brothers and sisters are now passed on. She's 96 years old." *Id.* at 14.

The individual testified that, had he been working at the DOE facility when he obtained his foreign passport in 2001, he "would have contacted our local security office. I just would have just gone in and said, hey, look, you know, I'm concerned about this, can we do something about this? And I would have requested a waiver through the normal channels." *Id.* at 35. However, "I was working in a different environment. I was no longer in that cold war . . . type thing where I wouldn't even have thought of doing this type thing." *Id.* at 35-36. The individual also noted that on "many occasions, particularly on the latter part of my career, [my foreign background], okay, the fact that I was born over there and so on, was used by the Department of Energy and by the [DOE facility] in much of our international work or liaison and so on. . . . And that was considered to be a plus and was emphasized." *Id.* at 34-35. The individual cited this fact as one of the reasons why, when he obtained the passport, "I just did not attach the seriousness to it." *Id.* at 35. The individual admitted that he "made a mistake. I should have contacted security back here. I should have gone through the channels and all the rest of it, but it was just the environment I was in at the time." *Id.* at 36.

When asked what he would have done had he been told at the time that he could not get a foreign passport and keep his clearance, the individual responded that he "wouldn't have given up my clearance, because I was still working at the [DOE facility] and the stuff I was doing was important." *Id.* at 92. By contrast,

Right now . . . the only reason I had applied for the extension [of the clearance] was to go back and provide whatever assistance I could in terms of archiving . . . data from the programs. So if I balance -- you know, and I don't even know if the funds are available from the [DOE facility] these days to even warrant me going back to work at [the DOE facility]. But what I did want to do, and why I called for this hearing, was to clear my name. Because I have what I think is a fairly distinguished career in the service of U.S. national security, and the idea that I

would be turned down for a clearance and be forced to carry a -- well, I don't even carry the badge because it's stamped ["Cannot be escorted"] -- I cannot be escorted here in [the DOE facility] after all these years of service. It just seems to me to be a little ridiculous, and that's why I've called for the hearing. I basically want to clear my name.

Id. at 15-16.

The individual stated that his "main concern in this hearing is that I've always considered myself a . . . national security asset, and all of a sudden I'm being accused of being a liability. And I don't want to finish a 30-year career of accomplishments with this stain on my character right at the end." *Id.* at 93.

I would give up the clearance without any stain on my character to get the passport, because the passport is the thing that I feel like I really need. And I know it's not a threat. . . . [I]f you say I can't hold a clearance, then, okay, then let's admit that I really need the passport and you don't really need me.

Id. at 94.⁵

V. Hearing Officer Evaluation of Evidence

As stated above, the underlying security concern in this case is that, "[w]hen an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States." Adjudicative Guidelines at Guideline C(9). Pertinent to the question of whether the individual's actions indicate a preference for the foreign country over the United States, there is ample evidence of the individual's allegiance to the United States, both from the documents and testimony described above, and from his nearly 30 years of service to the DOE facility and his two years of service to the U.S. military.

There remain, however, two undisputed facts which ultimately dictate my decision in this case. First, the individual possesses a foreign passport. As I note above, the Adjudicative Guidelines list the "possession of a current foreign passport" as an example of an "exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen" that "could raise a security concern and may be disqualifying" *Id.* at Guideline C(10)(a)(1). Moreover, the Adjudicative Guidelines provide two specific conditions that could mitigate the concern raised by the possession of a foreign passport:

- (d) use of a foreign passport is approved by the cognizant security authority;

⁵ The Part 710 regulations provide that "[p]ossible impact of the loss of the individual's access authorization upon the DOE program shall not be considered by the Hearing Officer." 10 C.F.R. § 710.27(b).

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated;

Adjudicative Guidelines at Guideline C(11)(d), (e). There is no dispute that neither of these two conditions have been met in the present case. Under such circumstances, and regardless of any other circumstances that may be present, I cannot find that a person in possession of a current foreign passport can also hold a security clearance.

VI. Conclusion

In the above analysis, I have found that there was sufficient derogatory information in the possession of the DOE that raises a security concern under Criterion L. I have also found that the individual has not brought forth the evidence required to sufficiently mitigate the security concerns advanced by the LSO. Accordingly, I have determined that the individual's access authorization should not be restored at this time. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Steven J. Goering
Hearing Officer
Office of Hearings and Appeals

Date: September 30, 2008